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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,113	10/04/2004	Yoshiaki Shibata	450100-04500	5049

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Frommer Lawrence & Haug  
745 Fifth Avenue  
New York, NY 10151

EXAMINER
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HENN, TIMOTHY J

ART UNIT	PAPER NUMBER
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2622

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/510,113	<b>Applicant(s)</b> SHIBATA ET AL.	
	<b>Examiner</b> Timothy J. Henn	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 January 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 14 January 2008 have been fully considered but they are not persuasive. Applicant argues that neither Fukai nor Loui discloses electronic mark data including attribute data and electronic mark text data linked to each other. Specifically, Applicant argues that the metadata of Loui is not "attribute mark data (as defined in the present application)". While it is true that Applicant may be his or her own lexicographer, the definition of such terms must be made with reasonable clarity, deliberateness and precision. The specification describes that the attribute mark data "may be construed to include scene identifiers" (p. 7 of replacement spec). However, this is not a definition with reasonable clarity, deliberateness and precision which would control the definition of the terms in the claim. Therefore, since Fukai discloses storing attribute data including a start time, stop time, OK/NG flag and title (Paragraphs 0040-0041) and the claims as written do not explicitly describe the contents of the "electronic

mark text data" and "attribute mark data", Applicant's arguments are not considered persuasive and the rejection based on Fukai and Loui are maintained below. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. The examiner further notes that for the sake of clarity, the 103 rejection has been amended to explicitly use the English language version of the Fukai reference (US 2001/0031131) instead of the Japanese language PCT application (WO 97/10673).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukai et al. (US 2001/0031131) in view of Loui et al. (US 7,110,025).

**Claim 1:** Fukai discloses a video content editing support system and method comprising:

(a) a recorder to describe electronic mark data related to the video content data in the video content data (Paragraphs 0005-0009; auxiliary data);

(b) an electronic mark list generator to generate electronic mark list data including header information on the video content data (Paragraph 0005 and 0044); and

(c) an editing unit to edit the video content data on the basis of the electronic mark list data (Paragraph 0006; Figure 4).

(d) wherein the electronic mark data comprises electronic mark text data which describes a feature of the video content data (Paragraph 0040-0041, title), wherein the electronic mark data includes attribute mark data (Paragraphs 0040-0041, start time, stop time and OK/NG flag) and the electronic mark text data linked to each other (Paragraphs 0040-0041, note that the data is stored together).

Fukai does not explicitly disclose that the electronic mark data includes text data showing a user input. However, Loui discloses that electronic mark data (ie, metadata, see paragraph 80 of the publication of the present application) can include text data showing a user input (column 3, line 67 to column 4, line 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention that the electronic mark data in the system and method of Fukai could include text data showing a user input. One would have been motivated to do so to additional information to the chunks of video content data, allowing for faster recognition and easier categorization.

**Claim 2:** Fukai and Loui disclose a system as in Claim 1, and Fukai further discloses that the recorder describes the video content data and electronic mark data on a nearly real-time basis (Paragraph 0030).

**Claim 3:** Fukai and Loui disclose a system as in Claim 1, and Fukai further discloses that the header information on the video content data is header information on video scenes included in the video content data (Figures 12A and 12B).

**Claim 4:** Fukai and Loui disclose a system as in Claim 1, and Fukai further discloses that the electronic mark data includes attribute mark data being attribute information on at least the video content data and electronic mark text data in which a feature of the video content data is described (e.g. Paragraph 0040-0041, it is noted that the start time, stop time and OK/NG flag meets the limitation of attribute information on the video content data and a title meets the limitation of a "feature of the video content data is described").

**Claim 5:** Fukai and Loui disclose a system as in Claim 5, and Fukai further discloses that the attribute mark data includes scene identifiers of video scenes in at least content video data (Paragraph 0040-0041, note that a title identifies video scenes as claimed).

**Claim 6:** Fukai and Loui disclose a system as in Claim 1, and Fukai further discloses that the electronic mark text data has described therein a feature, location of imaging or date of imaging of each video scene included in at least the video content data with text data (Paragraph 0040).

**Claim 7:** Fukai and Loui disclose a system as in Claim 1, and Fukai further discloses that the editing unit generates editing information data on the basis of the electronic mark list data and video content data (Paragraphs 0050-0052).

**Claim 8:** Fukai and Loui disclose a system as in Claim 1, but do not explicitly disclose that the electronic mark data is based on an input voice. However, Fukai discloses an audio input to the system for describing the electronic mark data (page 1, 5<sup>th</sup> paragraph onto page 2, 1<sup>st</sup> paragraph). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to use any kind of audio input, including a human voice to describe the electronic mark data. One would have been motivated to do so to allow for rapid marking of the video content data without physical input apparatus such as a mouse or a keyboard.

**Claim 9:** Fukai discloses an imaging device comprising:

(a) a recorder to describe electronic mark data related to the video content data in the video content data (Paragraphs 0005-0009; auxiliary data); and

(b) a communication unit to couple an editor's terminal unit to a recorder, the editor's terminal displays video content data (Figure 1A-1C, Figure 4).

(c) wherein the electronic mark data comprises electronic mark text data which describes a feature of the video content data (Paragraph 0040-0041, title), wherein the electronic mark data includes attribute mark data (Paragraphs 0040-0041, start time,

stop time and OK/NG flag) and the electronic mark text data linked to each other (Paragraphs 0040-0041, note that the data is stored together.

Fukai does not explicitly disclose that the electronic mark data includes text data showing a user input. However, Loui discloses that electronic mark data (ie, metadata, see paragraph 80 of the publication of the present application) can include text data showing a user input (column 3, line 67 to column 4, line 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention that the electronic mark data in the system and method of Fukai could include text data showing a user input. One would have been motivated to do so to additional information to the chunks of video content data, allowing for faster recognition and easier categorization.

**Claim 10:** Fukai discloses an editor's terminal unit comprising:

(a) an editing unit to edit the video content data on the basis of electronic mark data related to the video content data (Paragraph 0006; Figure 4); and

(b) a communication unit to couple the editor's terminal to an imaging device comprising a recorder to record captured video content data to a recording medium and wherein the imaging device displays the video content data (Figure 1A-1C.

(c) wherein the electronic mark data comprises electronic mark text data which describes a feature of the video content data (Paragraph 0040-0041, title), wherein the electronic mark data includes attribute mark data (Paragraphs 0040-0041, start time, stop time and OK/NG flag) and the electronic mark text data linked to each other (Paragraphs 0040-0041, note that the data is stored together.



Fukai does not explicitly disclose that the electronic mark data includes text data showing a user input. However, Loui discloses that electronic mark data (ie, metadata, see paragraph 80 of the publication of the present application) can include text data showing a user input (column 3, line 67 to column 4, line 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention that the electronic mark data in the system and method of Fukai could include text data showing a user input. One would have been motivated to do so to additional information to the chunks of video content data, allowing for faster recognition and easier categorization.

**Claim 11:** Claim 11 is a method claim corresponding to apparatus claim 1. Therefore, claim 11 is analyzed and rejected as previously discussed with respect to claim 1.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Henn whose telephone number is (571)272-7310. The examiner can normally be reached on M-F 11-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy J Henn/  
Primary Examiner, Art Unit 2622